

# **EXHIBIT E**

BRENNAN  
CENTER  
FOR JUSTICE

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November 1, 2012  
VIA E-MAIL

To: Anita S. Katz, Commissioner, [anita.katz@suffolkcountyny.gov](mailto:anita.katz@suffolkcountyny.gov)  
Wayne T. Rogers, Commissioner, [wayne.rogers@suffolkcountyny.gov](mailto:wayne.rogers@suffolkcountyny.gov)  
Suffolk County Board of Elections  
Yaphank Avenue  
Yaphank, NY 11980

RE: Processing of Voter Registration Applications from the DMV's Online System

Dear Commissioners Katz and Rogers,

I am writing because the Brennan Center has received reports that Suffolk County has refused to process the registrations of Suffolk County voters who have registered to vote via the Department of Motor Vehicles' (DMV's) online registration process, available since August 2012.<sup>1</sup> We write to ask you to confirm Suffolk County's policy regarding the processing of online voter registrations.

If these reports are inaccurate, and Suffolk has indeed processed all valid voter registrations that have been received, including those from the DMV's online registration system, please confirm this at your earliest convenience.

If, however, these reports are indeed correct, we urge you to take whatever steps necessary to ensure these voters are properly registered and appear on voter rolls before November 6<sup>th</sup>. We believe that rejections of such voter registrations would run afoul of New York law. In *Williams v. Salerno*, a federal appeals court held that all New York county boards of elections *must* accept any voter registration application that contains "substantially all of the required information unless the board of elections finds that the applicant is not entitled to register."<sup>2</sup> The online voter registration system provided by the New York DMV forwards applications to your office that are, without doubt, substantially complete.

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<sup>1</sup> See Press Release, New York Department of Motor Vehicles, Governor Cuomo Announces Reforms to Expand Access to Voter Registration (Aug. 16, 2012), available at <http://www.dmv.ny.gov/press.htm>.

<sup>2</sup> *Williams v. Salerno*, 792 F.2d 323, 329 (2nd Cir. 1986) (citing N.Y. Elec. Law § 5-210).


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In addition, the National Voter Registration Act (“NVRA”) requires that each state establish application procedures allowing individuals to register to vote when applying for a driver’s license with the state DMV.<sup>3</sup> The NVRA requires each state “to ensure” that any eligible applicant who timely submits a valid voter registration form to the DMV “is registered to vote”<sup>4</sup> and provides for a private right of action in federal district court for individuals not properly registered.<sup>5</sup> Therefore, the right of Suffolk County registrants to register through the DMV’s existing process is protected by both state and federal law.

If the Suffolk County Board of Elections has indeed declined to process the registrations of voters who used the DMV online system, please confirm any policy in place for handling these registrations or notifying the voters. We would also appreciate any information you can share as to the date and specifics of the majority vote of the Commissioners for any such policy, as is required for such action by the Board.<sup>6</sup>

Thank you for your time and attention to this letter. I am available by cell phone and email to discuss this matter at your earliest convenience; all my contact information is below.

Sincerely,



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<sup>3</sup> 42 U.S.C. § 1973gg-2(a)(1).

<sup>4</sup> *Id.* § 1973gg-6(a)(1)(A).

<sup>5</sup> *Id.* § 1973gg-9(b).

<sup>6</sup> All “actions” of the board of elections, including rejection of any voter registration application, must be made by a majority vote of the Commissioners. N.Y. Elec. Law § 3-212(2); *Williams v. Salerno*, 792 F.2d at 329.

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**CC:**

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